

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO.: 05-10088 MBB

JULIANNE MARIE EVANS, *

Plaintiff, *

vs. *

NANTUCKET COMMUNITY *

SAILING, INC., a Massachusetts *

Corporation, RONAN O'SIOCHRU *

and DONNCHA KIELY, *

Defendants. *

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTINO IN LIMINE TO
PRECLUDE PLAINTIFF FROM OFFERING EXPERT OPINIONS
BEYOND THE TESTIMONY OF ALAN R. HIRSCH, M.D.**

There is no requirement that the Plaintiff identify by means of a separate expert disclosure medical records and opinions contained therein in that have already been provided to Defendants' counsel. The defendants have been in possession of the Plaintiff's medical records and had the opportunity to depose and discover any information they wanted from these individuals. The medical records are admissible pursuant to Federal Rules of Civil Procedure, Rule 803(3)(4)(6) and Rule 902(11). Moreover, the Plaintiff has complied with the disclosure requirements of District Court L.R. 35.1 by providing the Defendant with a list of all medical records and bills, giving the Defendant copies of the records and bills and/or by providing the Defendant with a signed authorization to obtain medical records and bills. Dr. Hirsch's expert report and his deposition testimony identified the Plaintiff's medical records as a basis for his

opinion. The Federal Rules of Evidence do not require the records be admitted in evidence in order for an expert to testify about the medical care and treatment provided to the Plaintiff as contained in the underlying medical records. For these reasons the Defendant's motion should be denied.

Respectfully submitted,

/s/David P. Angueira

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DATED: November 9, 2007

CERTIFICATE OF SERVICE

I, David P. Angueira, Esq. do hereby certify that the foregoing document was served on the following counsel on this date and in the manner specified herein:

Electronically Serviced Through ECF:

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This 9th day of November, 2007.

/s/ David P. Angueira

David P. Angueira